

Notice of Allowability

Application No.

10/750,861

Examiner

Kallambella Vijayakumar

Applicant(s)

NAGAYAMA ET AL.

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 01/05/2004.
2. ☒ The allowed claim(s) is/are 1-3.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Mark Kopec
Primary Examiner

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DETAILED ACTION

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

The information disclosure statement (IDS) submitted on 01/05/2004 has been considered by the examiner.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

Claims 1-3 are allowed. The claims are allowed over the prior art of record that neither teaches nor fairly suggest the applicant's method of making an electrode active material containing specific elemental composition in specific ratios. The closest prior art by Kweon et al (US 6,372,385) teaches a method of making a composition with the formula $\text{LiA}_{1-x-y}\text{B}_x\text{C}_y\text{O}_2$ where $0 < x \leq 0.3$, $0 \leq y \leq 0.01$, and A is an element selected from the group consisting of **Co** and **Mn**; B is an element selected from the group consisting of **Ni**, **Co**, **Mn**, **B**, **Mg**, **Ca**, **Sr**, **Ba**, **Ti**, **V**, **Cr**, **Fe**, **Cu** and **Al**; and C is an element selected from the group consisting of **Ni**, **Co**, **Mn**, **B**, **Mg**, **Ca**, **Sr**, **Ba**, **Ti**, **V**, **Cr**, **Fe**, **Cu** and **Al**, by mixing the metal sources forming a mixture, first heat treating the mixture in air between 400-550C, a second heat treating the mixture in air between 700-900C and a final heat treating the coated mixture between 400-900C in air (Col-5, Ln 13-64). Applicant's instant claim limitation of heat-treating the component mixture between 1000-1100C in air is not obvious over the unexpected superior performance of the electrode material heat treated at 1050C with or without rebaking at 700C over an identical composition heat treated at 900C (See Specification, Data for Examples 1, 7 and comp. Example-4 in Tables 1-2 and 4 respectively).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kallambella Vijayakumar whose telephone number is 571-272-1324. The examiner can normally be reached on 8.30-6.00 Mon-Thu, 8.30-5.00 Alt Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KMV
August 10, 2006.


Mark Kopec
Primary Examiner